Supreme Court, U.S.
FILED
AUG 13 1971
E. ROBERT SEAVER, CLERK

APPENDIX

Supreme Court of the United States

OCTOBER TERM, 1971

No. 70-5037

DON RICHARD LEGO,

Petitioner,

—v.—

JOHN TWOMEY, WARDEN,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI FILED OCTOBER 20, 1970
WRIT OF CERTIORARI GRANTED MARCH 29, 1971

Supreme Court of the United States

OCTOBER TERM, 1971

No. 70-5037

DON RICHARD LEGO,

Petitioner,

—v.—

JOHN TWOMEY, WARDEN,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

INDEX

	Page
Docket Entries	1
Letter of April 5, 1969, to Honorable Hubert L. Will from petitioner, filed April 8, 1969 (Excerpts)	3
Petition for Writ of Habeas Corpus	5
Memorandum Opinion dated April 15, 1969	8
Letter of April 24, 1969, from petitioner to Honorable Hubert L. Will	11
Memorandum Opinion of January 13, 1970	13
Memorandum Opinion of February 10, 1970	19
Order of Court of Appeals for the Seventh Circuit dated October 8, 1970	21
Transcript of Trial (Excerpts)	24
Order granting motion for leave to proceed in forma pauperis and granting petition for writ of certiorari	28

List of Documents

PLACITA, JANUARY 13, 1970 SESSION

DATE	LIST OF DOCUMENTS
4- 8-69	Leave granted to petitioner to file in forma pauperis CAMPBELL, J.
4- 8-69	Filed petition for writ of habeas corpus; and letter from Petitioner to Judge Will dated April 5, 1969 (JS-5)
4- 8-69	Filed designation JWH
4-15-69	Filed Memorandum Opinion.
4-15-69	Pursuant to Court's Memorandum Opinion this day filed order petition for a writ of habeas corpus dismissed. Petitioner has failed to demonstrate that the Illinois Courts have had an opportunity to consider and decide the questions presented in his aplication for a writ of habeas corpus.—Will, J. (JS-6) Y
4-28-69	Filed Petitioner's letter 4/24/69 addressed to Judge Will and a petition for rehearing attached thereto. Y
5-23-69	Filed Petitioner's letter, dated 5/19/69 and addressed to Judge Will. Y
8-13-69	Filed petitioners document titled "Argument in support of petition for habeas corpus and rehearing," and copy. K
10- 2-69	Petitioner's petition for rehearing granted. Order heretofore entered denying petition for a Writ of Habeas Corpus vacated and set aside. Order respondent to show cause on October 16, 1969 at 10 A.M. why a writ of habeas corpus should not issue. —Will, J (JS-5) Y
10- 7-69	Filed petitioner's letter 10-3-69 addressed to Judge Will and a carbon copy of petition for Writ of Habeas Corpus in the Supreme Court of the State of Illinois. Y

List of Documents

DATE	LIST OF DOCUMENTS	
10-16-69	Order cause continued to October 17, 1969 at 10 A.M. for respondent to show cause why a writ of habeas corpus should not issued. Will, J	Y
10-17-69	Filed Respondent's notice of motion and motion to dismiss petition for writ of habeas corpus attached.	
10-17-69	Order leave respondent to file instanter motion to dismiss petition for writ of habeas corpus. Order cause taken under advisement. Will, J	Y
11-13-69	Filed Respondent's return to the Rule to Show Cause with certified record from Criminal Court of Cook County attached.	Y
11-21-69	Filed Petitioner's traverse to the respondent's Return to the Rule to show cause.	Y
1-13-70	Filed Memorandum Opinion.	
1-13-70	Pursuant to Court's Memorandum Opinion this day filed order petition for a writ of habeas corpus denied.—Will, J. (JS-6)	Y
1-21-70	Filed Petitioner's Notice of Appeal and Petition for Certificate of probable cause in forma pauperis.	
2-10-70	Filed in re Certificate of Probable Cause for Appeal and Petition to Proceed in Forma Pauperis.	
2-10-70	Filed Certificate of Probable Cause.	
2-10-70	Pursuant to Court's statement this day filed order petitioner's petition for a Certificate of Probable cause and leave to proceed in forma pauperis granted. Order leave to petitioner to proceed in forma pauperis. Order leave to petitioner to file Notice of appeal in forma pauperis and Clerk is directed to prepare and transmit record on appeal to the United States Court of Appeals, Seventh Circuit, without payment of costs.—Will, J.	Y

69 C 754

PLACITA, JANUARY 13, 1970 SESSION

April 5, 1969

69 C 754

[Filed Apr. 8, 1969, Elbert A. Wagner, Jr., Clerk]

Re: U. S. ex. rel. Don Lego vs.
Frank J. Pate, Warden.
Habeas Corpus Proceedings

Honorable Hubert L. Will
United States District Judge
U. S. Court House
Chicago, Illinois

Dear Judge Will:

Submitted herewith for your consideration is my petition for writ of habeas corpus. In my petition I present one issue for determination: Whether I was afforded an adequate and correct fact finding process upon the issue that a confession used at my trial was constitutionally inadmissible as evidence.

Under the *Jackson-Denno* dictates, 372 U.S. 368, 382, 84 S. Ct. 1774, 1785 (1964), the Supreme Court held that a "defendant objecting to the admission of a confession is entitled to a fair hearing in which both the underlying factual issues and the voluntariness of his confession are actually and reliably determined," and that the New York procedure did not afford a reliable determination of the voluntariness of the confession.

* * * *

This issue was presented to the trial court in both post conviction proceedings and habeas corpus proceedings; the trial court denied relief without a proper hearing on the merits. The Supreme Court of Illinois having heard an appeal (32 Ill. 2d. 76) from the judgment of the trial court and the matters herein not having been